

ESTATE OF EDWARD ALPHEUS JONES

IBIA 76-40

Decided June 18, 1976

Appeal from an order denying petition for rehearing.

Docketed and Dismissed.

1. Indian Probate: Appeals: Timely Filing

An appeal not filed within the time specified under Departmental Probate regulations will not be entertained and will be dismissed.

APPEARANCES: Robert Sam, pro se.

OPINION BY ADMINISTRATIVE JUDGE WILSON

The above-entitled matter comes before this Board on a Notice of Appeal, dated April 19, 1976, filed by Robert Sam, hereinafter referred to as petitioner, with Administrative Law Judge Robert C. Snashall. The Notice of Appeal was received by the Judge on April 22, 1976. The appeal is from an Order Denying Petition for Rehearing issued under date of February 18, 1976, by the Judge.

43 CFR 4.291 concerning appeals provides:

(a) Notice of appeal. The appellant shall file a written notice of appeal signed by him or his attorney or other qualified representative, in the office of the Administrative Law Judge who issued the decision being appealed, within 60 days after the date of mailing of the notice of the decision being appealed.

[1] Clearly, the notice of appeal was not timely filed. Accordingly, the appeal should be docketed and the appeal dismissed. Estate of Coffee No. 2, IA-926 (December 18, 1959); Estates of Alex (Boney) Dixon and Kenneth A. Dixon, IA-1148 (April 28, 1961).

Assuming, arguendo, that the appeal had been timely filed, the reasons given by the petitioner for the appeal are clearly without merit. An examination of the decision of February 18, 1976, of which the petitioner complains indicates no error on the part of the Judge in applying the proper law or the interpretation thereof in determining the heirs to the estate herein.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal dated April 19, 1976, filed by Robert Sam is hereby DOCKETED and the same is hereby DISMISSED for untimely filing pursuant to 43 CFR 4.291(a).

This decision is final for the Department.

Done at Arlington, Virginia.

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Alexander H. Wilson  
Administrative Judge

I concur:

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Wm. Philip Horton  
Board Member